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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,193	08/15/2001	Masato Katayama	HIR-139	1385
7590 01/13/2004				
Lorusso & Loud 440 Commercial Street Boston, MA 02109		EXAMINER PRYOR, ALTON NATHANIEL		
		ART UNIT PAPER NUMBER		

1616

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,193	<b>Applicant(s)</b> KATAYAMA ET AL.	
	<b>Examiner</b> Alton N. Pryor	<b>Art Unit</b> 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 5-11,13,15-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 5,6,9-11,15-18,20,21,23 and 24 is/are rejected.
- 7) ☐ Claim(s) 7,8,10,13 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Applicant's arguments filed 10/22/03, with respect to the rejection(s) of claim(s) under 35 USC 102(e) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of rejections below.

#### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17,20,23,24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogmann (US 6074452; 6/13/00). Rogmann teaches a method of promoting root growth on plants (grass plants) comprising providing a solvent (water); mixing a root inducing compound (fertilizer, saccharose, proteins, amino acids) with the solvent to form a liquid; and applying (spraying) the liquid onto a plant leave to induce root growth. See abstract, column 4. It is inherent that the stem of the grass plant is plugged into the soil.

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimatsu et al (Phytochemistry, vol. 29, no. 11, 3525-8). Yoshimatsu teaches a MS liquid medium comprising 4-chloro-IAA and other organics (IAA). In a claim to a solution, a statement of intended use or a statement to solution preparation has no patentable significance.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6,9-11,15,16,18,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogmann as applied to claims 17,20,23,24 above in view of Yoshimatsu above and Pei (CN 1176954; 3/25/98). See Rogmann 35 USC 102(b) rejection above. Rogmann teaches all that is recited in claims 5,6,9,11,15,16,18,21 except for the method comprising 4-chloro-Indolyl acetic acid (4-chloro-IAA) and sodium dodecyl benzene sulfonate. However, Yoshimatsu teaches a method of promoting root growth using 4-chloro-IAA. It would have been obvious to one having ordinary skill in the art to modify the invention (spray) of Rogmann to include the 4-chloro-IAA taught by Yoshimatsu. One would have been motivated to do this in order to enhance root growth of the grass plant. The modified invention of Rogmann-Yoshimatsu does not comprises sodium dodedyl benzene sulfonate. However, Pei teaches a method of promoting root growth using sodium dodecyl benzene sulfonate. It would have been obvious to one having ordinary skill in the art to further modify the modified invention of Rogmann-Yoshimatsu to include the sodium dodecyl benzene sulfonate taught by Pei. One would have been motivated to do this in order to maximize root growth of the grass plant.

#### ***Claim Objection***

Claims 7,8,13,22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior does not teach of suggest the

instant invention comprising alcohol, polyoxyethylenealkyl phenyl ether, xylene, and nonyl phenyl ether.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 703 308-4691. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

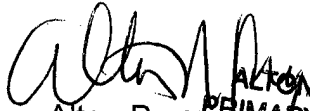
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is 703 305-3592.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

  
ALTON V. PRYOR  
Alton Pryor PRIMARY EXAMINER  
Primary Examiner  
AU 1616